

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2359 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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MEHTA HALIBEN HARAKHCHAND

Versus

STATE OF GUJARAT

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Appearance:

MS SONAL PUJARA for MR PN BAVISHI for Petitioner

MR HS MUNSHAW for Respondent No. 3

None present for other Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/06/1999

ORAL JUDGEMENT

1. Though Shri Hasmukh Patel, AGP, is present in the Court, as he does not have the papers of this case with him and he is also not making any submissions orally and rightly so as he cannot do so without the papers of this case, his attendance is not marked.

2. So far as Shri Munshaw is concerned, his only

contribution in this case is to make a request for adjournment of this case. When this request is not granted, second attempt has been made to defer the hearing of the case on the ground that three L.P.As. are pending in this court in the matter but I do not consider it to be appropriate to defer the hearing of this matter on the aforesaid ground. There is yet another reason for which I am not accepting this request of Mr. Munshaw. On 15-10-1998, the Division Bench of this Court has given direction for the expeditious disposal of this matter. This direction has to be complied with.

3. Only objection raised for denying the benefit of family pension to the petitioner is that the appointment of her husband was not in accordance with the recruitment rules. It is not in dispute that the deceased husband of the petitioner was appointed in the services of the Gram Panchayat in the year 1962 and he continued to work with the Gram Panchayat till he attained the age of superannuation on 31st March, 1988. If it would have been correct then I fail to see how the Government has permitted to continue the appointment of this person. Otherwise also, after retirement of a person and more so after his death when his widow is claiming the family pension then on such ground this benefit cannot be denied.

4. In the result, this special civil application is allowed and it is hereby declared that the petitioner is entitled for family pension. As in pursuance of the interim order of this Court dated 6th May, 1996, the respondents have already started to give family pension to the petitioner, no further direction is required to be given against them. The respondents No.1 and 2 are directed to pay Rs.1000/as costs of this petition to the petitioner. Rule is made absolute accordingly.